TOWN OF NEW WINDSOR

PLANNING BOARD

April 14, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN

HENRY VAN LEEUWEN HOWARD BROWN

DANIEL GALLAGHER

ALTERNATE: HARRY FERGUSON

ALSO PRESENT: MARK EDSALL, P.E.

PLANNING BOARD ENGINEER

JENNIFER GALLAGHER BUILDING INSPECTOR

NICOLE JULIAN

PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ. PLANNING BOARD ATTORNEY

ABSENT: NEIL SCHLESINGER

HENRY SCHEIBLE

REGULAR MEETING

MR. ARGENIO: I'd like to call to order the April 14, 2010 meeting of the New Windsor Planning Board. Leo,

lead us in the Pledge of Allegiance please.

 $\qquad \qquad \text{(Whereupon, the Pledge of Allegiance was } \\ \text{recited.)}$ 

MR. ARGENIO: Neil is not here this evening so Harry has come up with us. That said, let's get down right to it.

APPROVAL\_OF\_MINUTES\_DATED\_MARCH\_10,\_2010

MR. ARGENIO: If anybody sees fit, I'll accept a motion that we accept the minutes as written dated March 10, 2010 and sent out via e-mail on March 23.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

 $\mbox{MR. ARGENIO:}\mbox{ Motion has been made and seconded that we accept those minutes as written. Roll call.$ 

ROLL CALL

MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

#### ANNUAL MOBILE HOME PARK REVIEW:

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CINTRON MOBILE HOME PARK

MR. ARGENIO: First item on tonight's agenda is annual mobile home park review, it's the Cintron Mobile Home Park. Somebody here to represent this? Sir, could you please step up and give your name and address for the benefit of the stenographer?

MR. NUNZIATO: Frank Nunziato, 97 Cedar Avenue, New Windsor, New York.

MR. ARGENIO: Jen, has somebody from your office been there to take a look around?

MS. GALLAGHER: Yes, they have, everything is in order, everything is fine.

MR. ARGENIO: That's fantastic, that's good, it's good to keep these things in order. Have you brought with you this evening a check to benefit the town in the amount of \$250?

MR. NUNZIATO: Yes.

MR. ARGENIO: If anybody sees fit, I'll accept a motion we offer one year extension.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded we offer one year extension for Cintron Mobile Home Park.

ROLL CALL

MR. GALLAGHER AYE MR. VAN LEEUWEN AYE

MR. FERGUSON AYE MR. BROWN AYE MR. ARGENIO AYE

MR. ARGENIO: Thank you for coming in.

MR. NUNZIATO: Thank you.

### ZBA REFERRALS:

MITCHELL & BAILEY SUBDIVISION (10-10)

MR. ARGENIO: Next item tonight is ZBA referral Mitchell and Bailey subdivision. Somebody here to represent this? What's your name, sir, and who are you with?

MR. SCALZO: My name is Darren Scalzo, I'm here representing Mr. Mitchell. I'm here also from Bill James Associates out of Wallkill, it's actually my first time appearing before the Town of New Windsor.

MR. ARGENIO: If you have a plan, you can hang it up on the easel. This application proposes subdivision of a 1.43 acre parcel into two single family residential lots. This plan was reviewed on a concept basis only. Insomuch as you have not been here before, turn that easel to us so we can see it please, especially Danny cause he's off to my left a bit. Just tell us briefly what you'd like to do here then if there's any questions, we'll certainly ask you and hopefully you'll have an answer.

MR. SCALZO: As I said, I'm here representing Mr. Mitchell. Mr. Mitchell owns this parcel, currently his daughter lives in the house that's on the parcel, future plans he may hope to possibly move next to his daughter, he lives around the corner currently. The parcel is total acres 1.43, the current zoning will not allow for this subdivision to occur while meeting the zoning requirements. What I am here for we're splitting a lot which is very similar to the lots that surround it in this general vicinity.

MR. ARGENIO: That was going to be my next question.

MR. SCALZO: The tax map you can see what's local to the project. We're not looking for anything that's out

of the ordinary, actually the lots that we're creating would be bigger than lots that this parcel is contiguous to. What we're here seeking are variances for lot area, net lot area and in one case we're looking for lot width and the current existing dwelling that's on proposed lot number 1 is 60 square feet shy of the required minimum living area for a dwelling.

MR. VAN LEEUWEN: You want to create another lot?

MR. SCALZO: That's correct, sir.

 $\ensuremath{\mathsf{MR}}.$  ARGENIO: Tell me about the dwelling, say that again.

MR. SCALZO: It's square footage wise it doesn't meet the requirements of today's zoning.

MR. ARGENIO: It's too small?

MR. SCALZO: It's too small.

MR. ARGENIO: We zone that minimum size of the house?

MS. GALLAGHER: Of the house, no, it's one acre.

MR. EDSALL: Livable area.

MR. SCALZO: Minimum livable area of 1,200 square feet.

MR. ARGENIO: That's a code issue?

MS. GALLAGHER: Yes, it's in the bulk tables.

MR. ARGENIO: We're not looking to, you're not going to get your zoning dance done tonight, that's going to be done by the zoning board. But what I would encourage you to do is to show the proposed home location on the new lots wouldn't be a bad idea to do that, especially for the benefit of the zoning board. At this point in

time, there's really not a lot for the planning board to do with this other than the obvious. Mark, am I missing something with this application?

MR. EDSALL: No but when you're done I have one correction.

MR. ARGENIO: Go ahead.

MR. EDSALL: The bulk variances do not include a variance for net lot area. One correction that should be made to the bulk table is the net area which is 60 percent of the gross lot area so in fact you do meet based on my quick calculations you do meet the net lot area for both lots so you don't need variances for that. It's just the gross lot area where you come up deficient.

MR. SCALZO: Okay, thank you. Yeah, I'll change that for my next submission.

MR. ARGENIO: So, Harry, what we do for your benefit is we're going to refer them to the zoning board. They'll review it, either they'll give them approval or not and then he'll come back to us for hopefully a final approval. It seems to me that insomuch as you're creating two lots that are at the very least in kind with the neighborhood I think that you're going from this board to the other board with a favorable recommendation. Does everybody agree with that?

MR. GALLAGHER: I do.

MR. VAN LEEUWEN: I have no problem with it.

MR. ARGENIO: I'll accept a motion that we declare this application incomplete at this time.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare this application incomplete at this time which sends them to the zoning board. Roll call.

#### ROLL CALL

MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

MR. EDSALL: If acceptable to the board, I will make the Orange County Planning referral with Nicole and do it as a joint referral because it is both zoning and planning.

MR. ARGENIO: They are within 500 feet of Route 94 there's no AG issue here, is that correct?

MR. EDSALL: I think it's Union Avenue.

MR. ARGENIO: Union Avenue, right.

MR. EDSALL: So I'll take care of that.

MR. ARGENIO: Okay, that's it.

MR. SCALZO: Thank you very much.

#### REGULAR ITEMS:

BAXTER-STEIDLE LOT LINE CHANGE (10-04)

MR. ARGENIO: First regular item on tonight's agenda is the Baxter-Steidle lot line change on South Jackson Avenue.

Mr. William Steidle appeared before the board for this proposal.

MR. ARGENIO: This application proposes the conveyance of approximately 5.16 acres from Mr. Baxter to Mr. Steidle. This application appears to be a simple lot line change, it was previously reviewed at the 10 March, 2010 planning board meeting at which point in time we discussed this in a fairly great level of detail and we even went so far as to get a history lesson from Mr. Steidle. If my memory serves me, the only issue outstanding was the referral to county because he's either in or proximate to the AG district in that area. So tell us if anything has changed or if there's anything additional we need to consider on this application if you would.

MR. STEIDLE: Well, there was two issues, one was the county and I believe the county has responded.

MR. ARGENIO: Yes.

MR. STEIDLE: Second was for plan review comments that, four plan review comments that Mark had and I took those comments to my surveyor, requested that the plan be changed in strict accordance with those comments and to the best of my knowledge, that was done. In fact, I looked over their shoulder, the comments were responded to exactly as requested.

MR. ARGENIO: It appears you did a fine job to that end.

MR. STEIDLE: Thank you. So what I seek tonight is approval so that I can go forward with the purchase of the property.

MR. ARGENIO: Mr. Van Leeuwen, were you here for this last time?

MR. VAN LEEUWEN: No, I was not, I was in Florida.

MR. ARGENIO: It's a very simple application.

MR. VAN LEEUWEN: Matter of fact, I wasn't in Florida, I was in the hospital.

MR. ARGENIO: We talked about this pretty thoroughly and pretty specifically.

MR. VAN LEEUWEN: The Baxter property is in an AG district, am I correct?

MR. STEIDLE: So is mine, we have both been in the AG district since it was created in 1971. So there's no question there.

MR. ARGENIO: And Bill explained to us the whole, a lot of the nuances with the Orange County Land Trust which we don't need to get into now and we talked about some of the historic buildings.

MR. VAN LEEUWEN: He lives in a very old house.

MR. ARGENIO: Which was interesting and informative. If anybody has any questions, please jump in while I go through some formalities. If anybody sees fit, I'll accept a motion that we declare ourselves lead agency.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency for this application. Now I'm going to put you in the hot spot. Roll call.

#### ROLL CALL

MR.	FERGUSON	AYE
MR.	VAN LEEUWEN	AYE
MR.	GALLAGHER	AYE
MR.	BROWN	AYE
MR.	ARGENIO	AYE

MR. ARGENIO: If anybody sees fit, I'll accept a motion we declare a negative dec for this application.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare negative dec for the Baxter-Steidle lot line change. Roll call.

### ROLL CALL

MR.	GALLAGHER	AYE
MR.	VAN LEEUWEN	AYE
MR.	FERGUSON	AYE
MR.	BROWN	AYE
MR.	ARGENIO	AYE

MR. ARGENIO: Is there anything I'm missing here? I have a note here from the county and they say local determination. The proposed lot line change appears to be consistent with county comprehensive plan and local laws, et cetera, ad nauseum, local determination. Anybody have anything else?

MR. VAN LEEUWEN: What are you going to do, grow trees?

MR. STEIDLE: It has trees, there's roughly, I've leased it from Harold now it's roughly 1.5 acres of Christmas trees on the site, remaining is wetland.

MR. VAN LEEUWEN: Same thing?

MR. STEIDLE: No change in use and will remain as is.

MR. ARGENIO: Anybody?

MR. VAN LEEUWEN: I'll make a motion to approve.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer final approval to the Baxter-Steidle lot line change, Baxter Farm to Pine View Farm on Jackson Avenue. I'll have a roll call.

#### ROLL CALL

MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

MR. ARGENIO: Bill, we didn't hold you up, did we? We try to treat everybody equally as fair as the next guy so thank you for coming in.

MR. STEIDLE: If nobody wants the plans, if you can give them to Nicole, I'd like to get some copies.

MR. ARGENIO: Okay, that's fine.

MR. STEIDLE: It took 100 years to get a survey of the place, I'd like to get some copies of the map.

### BAXTER SUBDIVISION (10-11)

MR. ARGENIO: Next regular item is the Baxter subdivision on Jackson Avenue. It's my understanding this application has nothing to do with the previous application.

MR. DAILEY: That's correct.

MR. ARGENIO: This is the Harold Baxter minor subdivision. The application takes the two tax lots and reconfigures them to result in one tax lot on the east side and one tax lot on the west side of Jackson Avenue. This plan was reviewed on a concept basis only. Sir, can I have your name and the firm you're with please for the benefit of the stenographer and if you'd be kind enough to tell us what you're doing here.

MR. DAILEY: My name is Robert Dailey and I'm with Robert Daily Planning and Development and I'm here representing Harold Baxter, Jr. on this subdivision it's a 2 lot subdivision and basically you have, I'll show you this is the, this is an 18 acre piece across the street.

MR. VAN LEEUWEN: Between that and the railroad track?

MR. DAILEY: That's correct and then there would be you're seeing in here in red for those of you over here and the part that I'm showing you in red is what was asked to be a dedicated road parcel dedicated to the town and then the remainder of the property would be existing homestead on what would be the west side of the road. And what we provided you with here is a couple of sheets, it's in the R-1 district and it meets all of the requirements of the district, obviously one acre parcel and remainder and what we have provided you with in the plan is basically a merger of the railroad right-of-way which was owned by Harold Junior and the balance of the land on the east side of the road.

MR. ARGENIO: Point that right-of-way out.

MR. DAILEY: It's not on here, the old right-of-way had been purchased years ago, it had been segmented and purchased by interested landholders so it's not a contiguous right-of-way.

MR. ARGENIO: So that's already part of the parcel?

MR. DAILEY: That's correct.

MR. ARGENIO: Got it.

MR. DAILEY: And what we're showing on here is the road dedication parcel and I've shown it in the bright pink so you can see this is the land along Jackson Avenue and then remainder of the property which will be that 18 acre parcel less the road portion. We went out, we did percolation tests out there, the percs are wonderful because it's a gravelly loam, they come in at three to five minutes and it was just excellent soil and we submitted this to the board, I forget when it was, in early March, maybe March 4, 4 or 5 is that when it was, it seems like it was yesterday but--

MR. VAN LEEUWEN: What are they going to do, put a house on it?

MR. DAILEY: Yes, it's going to be a farmhouse.

MR. ARGENIO: Notwithstanding the fact that this may be just a lot line change, a new residence is proposed on lot 1, the applicant is reminded that soil tests in support of the sanitary disposal system designs must be witnessed by a representative of the town which would be the office of McGoey, Hauser & Edsall. Applicants are advised that the designed proposal preparing the SDS, the disposal system must be present to oversee the testing and report all results. I don't doubt you but

certainly we've had enumerable issues with soil and sanitary disposal systems in the west end of the town where this is or in the vicinity of this.

MR. VAN LEEUWEN: We've had a lot of problems out there.

MR. DAILEY: We're happy to have him out, in fact, we would ask that as soon as that can be arranged we'd be more than willing to get everybody out there. As you realize with this property it's in an AG district, it's not a change of use, it's a continuation of use. There's no modification of the agricultural district application and that's pretty much it. There are two following sheets on engineering, the survey was prepared by Howard Wheaton, I have Howard here this evening, the engineering was prepared by Mark Day of Day Engineering and I know Mark has been in touch with Mark Edsall with regard to setting a time to come out there so as soon as we can do that we'd be happy to accommodate.

MR. ARGENIO: Mark, hear me on this, there are discussions and have been discussions about safety improvements on Jackson Avenue, is this in the vicinity of those proposed and previously discussed improvements?

MR. EDSALL: I'm not quite sure, our office did not prepare those improvement plans but I can check.

MR. ARGENIO: Well, at the end of the day, my question is is that something we should be considering looking at and/or discussing with Mr. Baxter Junior at this point in time?

MR. EDSALL: It would make sense to be aware if the dedication as it's proposed is inconsistent with ultimately the alignment of the improvements.

MR. ARGENIO: Precisely where I'm going.

MR. EDSALL: This would be a great time to adjust things if we need to adjust I'll check into that.

MR. ARGENIO: And, sir, this has to go to Orange County Planning because you're in the vicinity of the AG district so to do this exercise is certainly not going to cost you any time. You guys follow me on this?

MR. GALLAGHER: Yes.

MR. ARGENIO: There's been talk Harry about safety improvements on Jackson Avenue, if there's any right-of-way takings or any such thing that needs to happen in this area we should be looking at this now considering this now.

MR. DAILEY: We'd be very happy to meet the cause for progress so--

MR. ARGENIO: Appreciate that.

MR. GALLAGHER: Is this a sight distance issue?

MR. ARGENIO: I don't know Dan and I specifically don't know where those improvements were going to happen is but I know this is a pretty big piece of Jackson and there is a couple of hook turns in there so if Mark can check into that.

MR. EDSALL: I am.

MR. DAILEY: Almost 2 1/2 acres of dedication so it's a considerable piece of property.

MR. ARGENIO: Good.

MR. VAN LEEUWEN: You have to understand one thing, everybody has to do it.

MR. DAILEY: I understand.

MR. VAN LEEUWEN: I know the Baxters very well, they're very, very nice people.

MR. ARGENIO: Junior would have been here but he's milking the cows.

MR. ARGENIO: Dominic, can we assume lead agency on this lawfully?

MR. CORDISCO: You can assume lead agency. I don't believe that there are any other involved agencies so I don't know if there's a need to circulate.

MR. EDSALL: I don't believe so, I think you're the only one.

MR. ARGENIO: Town of New Windsor is the only one?

MR. CORDISCO: Only one, so I don't think you need to go through the steps of circulation.

MR. ARGENIO: Accept a motion we declare ourselves lead agency.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency for this application.

ROLL CALL

MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. FERGUSON AYE

MR. BROWN AYE MR. ARGENIO AYE

MR. EDSALL: Just a quick note on the comments having gone through them they're all, other than the obvious need to go out as you pointed out to witness the perc tests which is town policy, the rest are minor corrections.

MR. ARGENIO: I'm okay with that but I don't know how far we can go.

MR. EDSALL: I'm not saying I want you to do anything, I'm just noting that formally three pages sometimes means there's a problem, this is just clean up.

MR. ARGENIO: I agree, I agree. You need to do that. Do you have Mark's comments?

MR. DAILEY: I have them right here.

MR. ARGENIO: You should endeavor to clean things up as he's pointed out. Do you guys have any questions on this? Seems fairly straightforward. Henry?

MR. VAN LEEUWEN: I know the property well.

MR. GALLAGHER: Nothing.

MR. ARGENIO: What else do you want from us tonight?

MR. VAN LEEUWEN: Are they going to tear the old house down? There's an old tenant house on the property.

MR. DAILEY: Up in the corner there?

MR. VAN LEEUWEN: Yes.

MR. DAILEY: I haven't asked Junior, I'll ask him, I'll get you an answer to that, you know, it's there, I

don't think it has any value to him so, you know.

MR. ARGENIO: Is it occupied?

MR. DAILEY: No.

MR. VAN LEEUWEN: Nobody's occupied that house in 50 years.

 ${\tt MS.}$  GALLAGHER: I believe he does plan to take it down when the new house is built.

MR. DAILEY: That's better information than I had.

MR. ARGENIO: What else can we do for you tonight?

MR. DAILEY: Other than a pound of \$50 bills you can release me.

MR. ARGENIO: Can't help you with that. Please do endeavor to take care of the comments that Mark has here, that will be very helpful and it would help you to move along in an expeditious fashion.

MR. DAILEY: Thank you, thank you for your attention.

# METROPCS\_SITE\_PLAN\_(10-05)

MR. ARGENIO: Next on tonight's agenda is the MetroPCS site plan on Toleman Road. This application proposes to co-locate onto an existing tower at the above-referenced location, corner of Toleman Road and 207. The application was previously reviewed at the 24 March, 2010 planning board meeting. Sir, can we please have your name for the benefit of the stenographer?

MR. MORANDO: Anthony Morando, I'm an attorney from the law firm of Cuddy & Feder.

MR. ARGENIO: You're a different guy, what happened to the other guy?

MR. MORANDO: He's out at another meeting tonight, I'm going to fill in. The board was waiting to get comments from county, the county letter has been received since then and there's nothing significant, left it to local determination so we're here tonight hoping to get a resolution.

(Whereupon, Mr. VanLeeuwen stepped down from the board for this proposal.)

MR. ARGENIO: Go ahead.

MR. MORANDO: Pretty much at the end. Essentially, I'll go back. We're waiting, the board was waiting for a letter from the county, letter's been received since then no significant comments.

MR. ARGENIO: The proposed site plan amendment and special use permit appears to be consistent with the county comprehensive plan and local laws, county recommendation local determination. Guys, again, this is another one and I hate to be accused of moving too fast but there's nothing here. Go ahead, Mark.

MR. EDSALL: Mr. Chairman, you asked that I check with Nicole on the status of the public hearing which is in my first bullet on comment 3. Nicole was kind enough to verify that it was waived at the prior meeting.

MR. ARGENIO: We did waive that?

MR. EDSALL: Yes.

MR. ARGENIO: And these antennas are going below the other antennas and we all kind of felt that this was really pretty an innocuous situation.

MR. CORDISCO: The law actually does favor co-location, it even encourages it, that's exactly what they're doing.

MR. ARGENIO: It's in the middle of a field, a cow field.

MR. BROWN: We could have approved it last time.

MR. ARGENIO: But for county, yes. So does anybody want to discuss this any further?

MR. GALLAGHER: Make a motion for final approval.

MR. BROWN: Second it.

MR. ARGENIO: I'll accept a motion we declare a negative dec for this application.

MR. BROWN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded we declare negative dec under the SEQRA process for Metro PCS site plan on Toleman Road. Roll call that we declare negative dec.

### ROLL CALL

MR. GALLAGHER AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

MR. ARGENIO: I'll accept that motion.

 $\ensuremath{\mathsf{MR}}.$  GALLAGHER: Make a motion that we give MetroPCS final approval.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded we offer MetroPCS final approval for their Toleman Road site plan. Roll call.

# ROLL CALL

MR. GALLAGHER AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

MR. ARGENIO: Thank you, sir. That was kind of a formality, I think we had resolved it at the last meeting. Mr. Van Leeuwen, if you want to come back up that would be great, it's certainly not the same without you.

# METROPCS\_SITE\_PLAN\_(10-12)

MR. ARGENIO: Next item on tonight's agenda is MetroPCS site plan Rolling Ridge and Dean Hill Road co-location of a telecommunications on an existing tower. This is a little bit of a different situation I believe this is our first time seeing this. I assume you're here to represent this as well?

MR. MORANDO: I am.

Anthony F. Morando, Esq. appeared before the board for this proposal.

MR. ARGENIO: Why don't you, do you have a plan with you?

MR. MORANDO: Yes.

MR. ARGENIO: Put it up on the easel there for us to look at.

MR. MORANDO: Essentially this application is similar to the Toleman Road application in that it's a co-location on an existing tower in accordance with the code in that it promotes shared use to avoid the need to construct a new tower. We attempted to place the antennas at a level lower than the lowest carrier, however, as indicated in our coverage maps and our application that won't meet the desired coverage need so we went to the next best option being to add a minor extension to the top of the tower to place the antennas.

MR. ARGENIO: They're all always minor.

MR. MORANDO: It's the lowest it can be to avoid interference with other carriers.

MR. ARGENIO: And you have a 162 foot tower and you're

adding 12 feet?

MR. MORANDO: No, it's 152 and you'd be adding 12 feet to make it 164. The antennas would be at 162, the tip would be at 164, essentially, this would avoid the need to construct a new tower. And as we indicated in our application, we're seeking as you are through our conversations with staff and as we indicated in our application, we're seeking site plan and special permit approval. Now we have submitted a comprehensive application with attached submission addressing most of the issues, excuse me, all the issues that are required for a special permit and site plan. Considering that, we're here tonight to request that the planning board schedule a public hearing for next month.

MR. ARGENIO: Mark, is there any interface with County Planning on this? Is there an AG district across the street, anything else going on?

MR. EDSALL: We're not aware of any AG districts within 500 feet and we asked the applicant's engineer to confirm distance to the nearest state or county highway and it's the Thruway at over 1,500 feet so to the best of my knowledge and as reported by their engineer, it doesn't look as if we have a county planning issue.

MR. ARGENIO: And you're putting a building down at the bottom as well?

MR. MORANDO: Yes, we're going to be adding a, it's a, we're extending the compound a little to add four cabinets and  $10 \times 20$  area to place those cabinets.

MR. ARGENIO: And you have power there, is that right?

MR. MORANDO: Yeah, well, yeah, it would be an extension of the current because there's already an existing compound.

MR. ARGENIO: What does that mean? I don't know what that means.

MR. MORANDO: The cabinets, excuse me, they have cabinets already servicing the other carriers now we have four cabinets sort of in accordance with those cabinets basically two of them with radio backup and two with radio equipment to service the antennas.

MR. ARGENIO: To my fellow members, this is in a residential district so I'll go around the room but it seems to me that we should most definitely have that public hearing.

MR. GALLAGHER: I agree.

MR. VAN LEEUWEN: Make a motion to that effect.

MR. ARGENIO: Even though it doesn't require the special permit, I have a motion that we schedule the public hearing.

MR. BROWN: I'll second that.

MR. ARGENIO: Mark, did you want to say something?

MR. CORDISCO: Just to clarify your comment, I do believe that this application is for a special permit.

MR. ARGENIO: Wait a second, says here does not.

MR. EDSALL: This is the, Mr. Chairman, maybe if we can have a little history, very quickly, I'll try to do it as briefly as possible, I know you don't like extending things.

MR. ARGENIO: Not paying you by the word.

MR. EDSALL: Exactly. This project is in the R-2 zone

just so the record is clear, the current regulations pertaining to cell towers would not permit this tower in this zone.

MR. ARGENIO: So it is in fact a special permit.

MR. EDSALL: But there was never a special permit issued because when this tower was built the adjoining subdivision that this driveway now comes off of Rolling Ridge didn't exist, in fact, the driveway went all the way out to Dean Hill before Dean Hill even was a through road, this is an old tower, probably one of the first ones to come in New Windsor, it existed before the town adopted cell regulations. So we're now dealing with an application that's trying to meet the spirit of the law which is to co-locate but is in fact an expansion of a non-conforming use.

MR. ARGENIO: So we're trying to or we're going to try to almost retroactively clean this thing up and bring it into compliance.

MR. EDSALL: I'll let Dom speak on the special permit issue but it should be clear that I think it falls under both, Dom will speak to the special permit but I believe it falls under the category of an expansion of a non-conforming use which you're allowed to do up to 25 percent. This is effectively an 8 percent increase in the tower height so we're kind of pounding a round peg into a square hole here but it's all resultant because this tower existed before the town's local laws existed.

MR. ARGENIO: When you talk about that 8 percent for whatever reason we're not talking about the footprint of the cabinet on the bottom or anything of that nature?

MR. EDSALL: Correct because there's two issues for non-conforming, there's non-conforming setbacks and

non-conforming uses.

MR. ARGENIO: No setback issue?

MR. EDSALL: Here the setbacks aren't an issue, it's the use itself and the only relevant fact is the height and the heights aren't currently regulated in the code for cell towers, it's a review issue for site plan and special permit.

MR. ARGENIO: Counselor?

MR. CORDISCO: Because the extension even though it's an extension of a non-conforming use it is within however the 25 percent that's allowed by code, if it was over the 25 percent, they would need to go to the Zoning Board of Appeals. But since they're within the 25 percent, it's only 8 percent they're well within that expansion and doesn't need to go to the ZBA. However, as you have mentioned yourself, we're playing catch-up here because there's normally for a co-location special use permit would not be required because special use permit had already been granted for the tower.

MR. ARGENIO: This is non-conforming in the R-2 zone?

MR. CORDISCO: Correct. There's no special permit for this tower now that they're before you seeking an expansion of the tower, albeit minor the board should grant if you're going to grant at the end of the day a special use permit and having a special use permit requirement requires us to have a public hearing.

MR. ARGENIO: Thank God we have these attorneys, huh Harry? So we don't even need to vote on that then that's going to be necessary.

MR. EDSALL: Just have to authorize it.

MR. CORDISCO: Just have to schedule it.

MR. ARGENIO: We should get that scheduled, you were going to say something?

MR. MORANDO: No, I was just commenting on your assessment of attorneys.

MR. ARGENIO: Our attorney's good.

MR. MORANDO: I know he is.

MR. ARGENIO: He's better than most.

MR. MORANDO: I said we serve a purpose every now and then, I was referring to myself.

MR. CORDISCO: You're on your own.

MR. ARGENIO: He's walking a thin wire. Is there, should we take the position of lead agency? Is there any other agencies involved in this?

MR. EDSALL: No, you can.

MR. CORDISCO: Still need to circulate but you can assume.

MR. ARGENIO: I'll accept a motion we assume position of lead agency.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency for this application. Roll call.

ROLL CALL

MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

MR. ARGENIO: Do you have Mark's comments?

MR. MORANDO: Yes, I just received them.

MR. ARGENIO: There's some clean-up things that need to be done. What else can we do for you tonight?

MR. MORANDO: That's it.

MR. ARGENIO: Get ahold of Nicole and talk about the mechanics of getting that public hearing thing taken care of.

MR. MORANDO: We'll be put on for next month's agenda?

MR. ARGENIO: No, I didn't say that. I said get ahold of Nicole and do whatever it is you need to do, do what she tells you to do to get to the public hearing, get squared away and the notices out because she's the boss when it comes to that. And if you can get your ducks in a row and, get the notices taken care of we'll put you on the first available agenda.

MR. MORANDO: Thank you.

MR. ARGENIO: Anything's else you guys down there?

MR. EDSALL: No.

MR. CORDISCO: No.

MR. MORANDO: I was going to ask a question. So as long as I work with Nicole we can get onto the May

### agenda?

MR. ARGENIO: No, I did not say that. Let me be clear. Work with Nicole, get your notices out, get squared away, I don't know what's on the May agenda, that may be full, I don't know it to be full but if it's full, it's full.

MR. MORANDO: Got it.

MR. ARGENIO: But I take no exception when you're ready as long as we have an opening we'll put you on.

MR. MORANDO: Thank you very much, I appreciate it.

MR. ARGENIO: Motion to adjourn?

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. FERGUSON AYE
MR. BROWN AYE
MR. ARGENIO AYE

Respectfully Submitted By:

Frances Roth Stenographer